

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HIBAH T. LEE,

Plaintiff,

-against-

JOHN DOE, ORANGE COUNTY JAIL; JOHN  
DOE, ORANGE COUNTY FACILITY  
(ADMINISTRATION); ANTHONY M. MELE,  
CORRECTIONS ADMINISTRATION;  
SERGEANT KISZKA, #134,

Defendants.

20-CV-6176 (CS)

ORDER OF SERVICE

CATHY SEIBEL, United States District Judge:

Plaintiff, currently detained in the Orange County Jail, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants are violating his constitutional rights. By order dated November 30, 2020, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP).<sup>1</sup>

**DISCUSSION**

**A. Service on Defendants Anthony M. Mele (Corrections Administrator) and Sergeant Kiszka, #134**

Because Plaintiff has been granted permission to proceed IFP, Plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90

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<sup>1</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date the summonses are issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Anthony M. Mele (Corrections Administrator) and Sergeant Kiszka, #134 through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these Defendants.

Plaintiff must notify the Court in writing if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.

## **B. John Doe Defendants**

Because Plaintiff does not make any allegations against the John Doe Defendants and does not supply sufficient information to permit the attorney for or agent of the Doe Defendants to identify them, the Court declines, at this time, to issue an order under *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997) (a *pro se* litigant is entitled to assistance from the district court in identifying a defendant), seeking the identities of the John Doe Defendants.


**CONCLUSION**

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to issues summonses, complete the USM-285 forms with the addresses for Defendants Anthony M. Mele (Corrections Administrator) and Sergeant Kiszka, #134, and deliver all documents necessary to effect service to the U.S. Marshals Service.

SO ORDERED.

Dated: December 28, 2002  
White Plains, New York

  
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CATHY SEIBEL  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. Anthony M. Mele (Corrections Administrator)  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
2. Sergeant Kiszka, #134  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924